



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
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NEW YORK, NY 10007-1866

JUL 25 2007

Robert E. Arnold
FHWA, Division Administrator
Leo O'Brien Federal Building
Clinton Ave. & Pearl Street
Albany, New York 12207

Dear Mr. Arnold:

The **Environmental** Protection Agency (EPA) has reviewed the Federal Highway **Administration**/New York State Department of Transportation's (NYSDOT) draft environmental impact statement (EIS) on the realignment and reconstruction of the existing Exit 122 interchange on New York State Route 17 (CEQ# 20070230) to be located in the Town of **Wallkill**, Orange County, New York. The project includes new and widened bridges over Route 17. This review was conducted in accordance with Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609, PL 91-604 12(a), 84 Stat. 1709), and the National Environmental Policy Act.

Four alternatives and a modification to one of the alternatives to improve the Exit 122 interchange were evaluated in the draft EIS. The preferred alternative impacts 2.42 acres of wetlands (1.41 acres **jurisdictional**/ 1.01 acres non-jurisdictional), 3.1 acres of 100 year floodplain, 7 archeological sites, 25.6 acres of forest, 5 residences for noise, and 5 business and 2 residential properties. We note that, the preferred alternative is not indicated until Chapter V of the draft EIS. The preferred alternative should be clearly identified throughout the document, including the summary. **EPA's** comments are as follows:

Air Quality

- **Page IV-86 and Appendix L, Page 11:** Please describe the characteristics of the project that led to the determination that it is a project of air quality concern for **PM_{2.5}** (40 CFR 93.123(b)(1)). We do not believe this project meets any of the referenced definitions and therefore does not require a hot-spot analysis to satisfy transportation conformity requirements. However, we believe it is appropriate to discuss microscale, or local, **PM_{2.5}** impacts to satisfy NEPA requirements.
- **Page IV-86 and Appendix L, Pane 11:** Please note that for NEPA purposes, the current 24-hour **PM_{2.5}** standard is 35 $\mu\text{g}/\text{m}^3$. However, for transportation conformity purposes, **PM_{2.5}** hot-spot determinations should be made using the 65

$\mu\text{g}/\text{m}^3$ 24-hour Standard until EPA makes non-attainment designations based on the new standard.

- Page IV-86 and Appendix L, Pane 11: Please provide more representative data for 24-hour $\text{PM}_{2.5}$ levels in 2006. For example, the highest recorded 24-hour $\text{PM}_{2.5}$ value at the Newburgh monitor for 2006 was $41.8 \mu\text{g}/\text{m}^3$ (recorded on June 19, 2006). This value would exceed the current 24-hour $\text{PM}_{2.5}$ standard of $35 \mu\text{g}/\text{m}^3$ (though at the time it was recorded this value was below the standard of $65 \mu\text{g}/\text{m}^3$). Other monitored values in 2006 include 31.7, 27.5, 27.1, and $25.8 \mu\text{g}/\text{m}^3$. Using these values as the starting point for a qualitative $\text{PM}_{2.5}$ microscale analysis would be more conservative than the current value of $4.97 \mu\text{g}/\text{m}^3$.
- Page IV-88 and Appendix L, Page 14: Please note that Orange County is also a $\text{PM}_{2.5}$ nonattainment area.
- Page IV-88 and Appendix L, Page 14: We agree the project should currently be classified as exempt from transportation conformity as a planning study; however, once a final determination is made on the preferred alternative, the New York Interagency Consultation Group (ICG) must re-evaluate the exempt status. Several of the proposed alternatives present significant changes to the ramp and arterial roadway configurations, including new roadways, while affecting traffic patterns around the interchange. If the ICG subsequently determines the project to be non-exempt, NYSDOT must ensure the project and its final design and scope are included in a conforming transportation plan and transportation improvement program prior to FHWA issuing a Record of Decision.

General Comments

- The document references Federal legislation that provides the language for Future 1-86 designation for the remainder of NYS Route 17, but does not name the legislation. This information should be included.
- The table of environmental impacts on page viii does not include impacts to surface waters. All impact tables should reflect this information. These impacts should also be recorded in linear feet of surface waters.
- Page 11-46 discusses culverts and bridges but fails to give the length of existing and proposed culverts and bridges. For example, the culvert for NYS Route 17 EB and WB over Phillipsburg Creek (Tributary No. 2) is 10 feet wide and 10 feet high and located 2,170 feet upstream of the confluence with the Wallkill River, but the length is not mentioned. This information should be included in the draft EIS, along with the length of any extensions. In general, we recommend that oversized natural bottom structures be used to allow fish and wildlife passage.
- The draft EIS states that a seven-mile segment of the Wallkill River downstream of the NYS Route 17 Bridge is listed on the nationwide Rivers Inventory by the

National Park Service. The location of this portion of river is unclear, The project team should coordinate as soon as possible with National Park Service to resolve any issues.

- A discussion of the stream habitat (for **all** surface water bodies) should be included in the draft EIS. The linear feet of impacts should also be included.
- All wetland, stream, and terrestrial mitigation should be coordinated with the resource agencies to develop an appropriate mitigation package for the project.
- Page IV-33 states that Table IV-12 provides a detailed breakdown of the impacts to project area wetlands including cover **type**. The cover type is not included in the table.
- A description of each impacted wetland and surface water feature should be included in the text of the draft EIS. The EIS should clearly explain the resources and the impacts associated with the project.
- Page IV-39 discusses potential mitigation locations. There should be a plan to address invasive species at the chosen locations.
- Page IV-49 states that the preferred alternative has a 113% increase in impervious surface and Alternative 2C has 107%. Based on Figures **III-2** and **III-3**, it appears the alternatives are the same except for the connector road **from** the East Main Street Extension in Alternative 2C. As such, it seems that 2C would have a greater increase in impervious surface.
- Based on information provided, the preferred alternative has the least impact to jurisdictional wetlands; however, non-jurisdictional wetlands provide vital functions. Impacts to any wetlands should be assessed and mitigated.
- The project team should continue to avoid and minimize impacts to human and environmental resources.
- We **recommend** that the project team investigate green highway technologies to reduce impacts associated with this project. This would include stormwater management.
- A map depicting the alternatives and labeled wetlands/**streams** should be included. As presented, it is **difficult** to locate the unlabeled environmental features on the alternative maps. The black and white environmental features map does not include the alternatives.
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 - The document is difficult to navigate in places, especially Chapter IV. In some cases references to page numbers do not match the information provided on **that** page. For example, page IV-25 references Section **IV.B.3.a. (ii)** on page IV-29.

Page IV-29 does not have this section labeled and the text does not appear to include the referenced information.

- The document should discuss **borrow/fill** material and where the material will be obtained or disposed.

In conclusion, based on our review and in accordance with EPA policy, we have rated this draft EIS and the preferred alternative as EC-2, **indicating** that we have environmental concerns (EC) about potential air quality impacts that should be addressed in the final EIS. **Thank** you for the opportunity to comment on this project. If you have any questions concerning **our** comments, please contact Lingard **Knutson** of my staff at (212) 637-3747.

Sincerely yours,


for **John Filippelli**

Chief, Strategic **Planning** Multi-Media Programs Branch

Enc.

cc: R. Smisko, NYSDOT

SUMMARY OF RATING DEFINITIONS AND FOLLOW-UP ACTION

Environmental Impact of the Action

LO-Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC-Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation **measures** that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO-Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided to **provide** adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU-Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory **from** the standpoint of environmental quality, public health or welfare. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommend for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1-Adequate

EPA believes the draft EIS adequately sets forth the environmental **impact(s)** of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of **clarifying** language or information.

Category 2-Insufficient Information

The draft EIS does not contain **sufficient** information for EPA to fully assess environmental impacts that should be avoided in order to **fully protect** the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3-Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analysis, or discussions are of such a magnitude that they should have full public review at a **draft** stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA **and/or** Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised **draft** EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to **the** CEQ.

*From: EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."